

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>RLI INSURANCE COMPANY</b>	:	Civil Action No. <b>1:14cv802</b>
	:	
Plaintiff	:	Judge: <b>Sandra S. Beckwith</b>
	:	Magistrate: <b>Stephanie K. Bowman</b>
vs.	:	
	:	
<b>FIFTH THIRD BANCORP</b>	:	
	:	
Defendant	:	
	:	

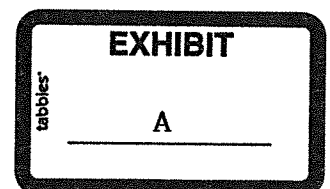
**DECLARATION OF MARK J. BYRNE**

Comes now, Mark J. Byrne, pursuant to 28 U.S.C. §1746 and provides the following Declaration:

1. On March 12, 2015 I attended a Preliminary Pretrial Conference held by Magistrate Judge Stephanie Bowman in the above captioned matter. During the conference, issues regarding the Scheduling Order were discussed. None of the Defendants' counsel objected to the Court's adoption of the agreed upon Discovery Plan which did not limit discovery or request that the case be bifurcated. Nor did any of the Defendants' counsel complain that discovery regarding Fifth Third's existing bad faith claim should be stayed, conducted in phases, or bifurcated.

2. Attached herein as Exhibit 1 is a true and accurate copy of RLI Insurance Company's response and Objection to Fifth Third Bancorp's Rule 30(b)(6) Notice to RLI Insurance Company.

3. Attached herein as Exhibit 2 is a true and accurate copy of RLI's Amended Rule 30(b)(6) Deposition to Fifth Third Bank.



4. On April 6, 2016 I attended RLI's Rule 30(b)(6) deposition of Fifth Third Bank. During the deposition, Mr. Schmookler, counsel for RLI, asked questions of Fifth Third's corporate representative relating to Topic 64, Fifth Third's bad faith claim.

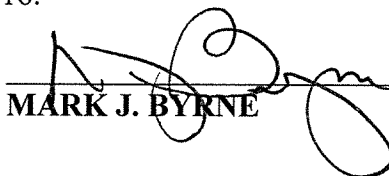
5. Attached hereto as Exhibit 3 is a true and accurate copy of a December 4, 2015 email relating to a meet and confer conference I had with Mr. Schmookler.

6. During a telephone conversation with Mr. Schmookler on December 3, 2015 he indicated that he provided pre-suit coverage advice to RLI.

7. Attached hereto as Exhibit 4 is a true and accurate copy of an email string in which I wrote to Mr. Schmookler. On the email dated December 4, 2015 at 4:56 p.m. I advised that Fifth Third did not anticipate that Mr. Schmookler would be both coverage counsel and litigation counsel for this case.

8. Attached hereto as Exhibit 5 are true and accurate copy of deposition excerpts from Ms. Hiemstra's deposition.

Executed on this 12<sup>th</sup> day of April 2016.

  
MARK J. BYRNE